



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes** OPR, MNR

### **Introduction**

This matter was conducted by way of Direct Request Proceeding, pursuant to Section 55(4) of the *Residential Tenancy Act* (the “Act”), and dealt with an Application for Dispute Resolution by the Landlords for an Order of Possession and a Monetary Order.

The Landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding on each of the Tenants. The Proof of Service documents declare that on the Landlord SH served the Notice of Direct Request Proceeding on the Tenants by posting the documents to door at the rental unit. The Landlords did not indicate the date the documents were posted to the Tenants’ door.

Based on the written submissions of the Landlords, I find that the Landlords have not provided sufficient evidence that the Tenants were duly served with the Notice of Direct Request Proceeding. The Proof of Service document clearly states that a Notice of Direct Request may not be served by posting it to a tenant’s door for the purpose of requesting a Monetary Order. Section 89 of the Act provides the methods of service for an application for an Order of Possession and a Monetary Order. Section 89 states:

### **Special rules for certain documents**

**89** (1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, when required to be given to one party by another, must be given in one of the following ways:

- (a) by leaving a copy with the person;
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;
- (e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*].

(2) An application by a landlord under section 55 [*order of possession for the landlord*], 56 [*application for order ending tenancy early*] or 56.1 [*order of possession: tenancy frustrated*] must be given to the tenant in one of the following ways:

- (a) by leaving a copy with the tenant;
  - (b) by sending a copy by registered mail to the address at which the tenant resides;
  - (c) by leaving a copy at the tenant's residence with an adult who apparently resides with the tenant;
  - (d) by attaching a copy to a door or other conspicuous place at the address at which the tenant resides;
  - (e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*].
- (3) A notice under section 94.21 [*notice of administrative penalty*] must be given in a manner referred to in subsection (1).

Further to the provisions of Section 89(1), for the purposes of an application for a Monetary Order, posting the Notice of Direct Request (the "Notice") on a tenant's door is not sufficient service. Further to the provisions of Section 89(2)(d), a landlord may serve a tenant with the Notice by posting it on a tenant's door for the purpose of requesting an Order of Possession. However, the Landlord did not indicate the date on which the Notice was posted on the Tenants' door.

Therefore, the Landlords' application is dismissed in its entirety, with leave to reapply.

### **Conclusion**

The Landlords' application is dismissed with leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: April 20, 2011.

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